

(11)

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	James B. Moran	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	01 C 4938	DATE	4/12/2002
CASE TITLE	Lashauna Buckley etc. Vs. Mount Sinai Hospital etc. et al.		

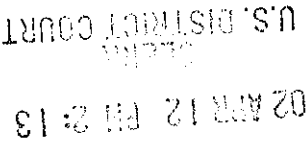
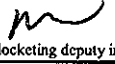
[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

Memorandum Opinion and Order

DOCKET ENTRY:

(1)	<input type="checkbox"/>	Filed motion of [use listing in "Motion" box above.]
(2)	<input type="checkbox"/>	Brief in support of motion due _____.
(3)	<input type="checkbox"/>	Answer brief to motion due _____. Reply to answer brief due _____.
(4)	<input type="checkbox"/>	Ruling/Hearing on _____ set for _____ at _____.
(5)	<input type="checkbox"/>	Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(6)	<input type="checkbox"/>	Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(7)	<input type="checkbox"/>	Trial[set for/re-set for] on _____ at _____.
(8)	<input type="checkbox"/>	[Bench/Jury trial] [Hearing] held/continued to _____ at _____.
(9)	<input type="checkbox"/>	This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] <input type="checkbox"/> FRCP4(m) <input type="checkbox"/> General Rule 21 <input type="checkbox"/> FRCP41(a)(1) <input type="checkbox"/> FRCP41(a)(2).
(10)	<input checked="" type="checkbox"/>	[Other docket entry] Enter Memorandum Opinion and Order. The motion to reconsider is denied.
(11)	<input checked="" type="checkbox"/>	[For further detail see order attached to the original minute order.]

	No notices required, advised in open court.		number of notices	Document Number <div style="font-size: 2em; font-family: cursive;">19</div>
	No notices required.		APR 12 2002 date docketed	
	Notices mailed by judge's staff.		 docketing deputy initials	
	Notified counsel by telephone.		date mailed notice	
<input checked="" type="checkbox"/>	Docketing to mail notices.		mailing deputy initials	
	Mail AO 450 form.			
	Copy to judge/magistrate judge.			
WAH		courtroom deputy's initials		
		Date/time received in central Clerk's Office		

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LASHAUNA BUCKLEY, mother and
next friend of CHLOYE DOUGLAS,
a minor,

Plaintiff,

vs.

MOUNT SINAI HOSPITAL MEDICAL
CENTER, et al.,

Defendants.

No. 01 C 4938

DOCKETED
APR 12 2002

MEMORANDUM OPINION AND ORDER

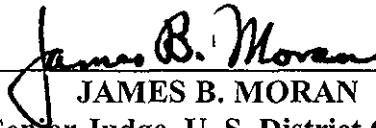
On October 10, 2001, we remanded the case to state court, finding no federal jurisdiction upon the representation of the United States that defendant Dr. Godwin Onyema was not a federal employee. Dr. Onyema has moved to reconsider, pointing out that the government successfully contended in Alexander v. Mount Sinai Hospital Medical Center of Chicago, 00 C 2907, before Judge Kocoras, that he was a federal employee. Judge Kocoras there rested upon the fact that Dr. Onyema was the sole shareholder and employee of his medical practice corporation and signed the contract on behalf of his corporation.

The government's position is succinct: it made a mistake in Alexander in deeming Dr. Onyema a federal employee, and its decisions there and here are not reviewable. Plaintiff contends that Dr. Onyema's motion comes too late; he has been actively defending the state court case since before his motion to reconsider.

We believe that the government's position may be reviewable to a limited extent, as Del Valle v. Sanchez, 170 F.Supp. 2d 1254, 1267-68 (S.D. Fla. 2001) indicates, and the motion is at

least technically timely. But, as Del Valle also indicates, courts are wary of substituting their judgment for that of the Department of Health and Human Services. The Department has reverted to a bright line standard, only contractors are deemed federal employees, and that is a reasonable construction we believe compelled to follow. The motion is denied.

April 12, 2002.



JAMES B. MORAN
Senior Judge, U. S. District Court